

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:24-cv-02147-SVW	Date	April 10, 2025
Title	Andres Urena v. United States of America		

JS - 6

Present: The Honorable	STEPHEN V. WILSON, U.S. DISTRICT JUDGE		
Paul M. Cruz	N/A		
Deputy Clerk	Court Reporter / Recorder		Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
N/A	N/A		

Proceedings: IN CHAMBERS ORDER DISMISSING ACTION

The Court orders the case dismissed, pursuant to the attached order.

Initials of Preparer :
PMC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES – GENERAL

Case No. 2:14-cr-00441-SVWDate: April 9, 2025Present: The Honorable: Stephen V. Wilson, U.S. District JudgeInterpreter N/A

Paul M. Cruz	N/A	N/A
<i>Deputy Clerk</i>	<i>Court Reporter / Recorder</i>	<i>Assistant U.S. Attorney</i>

<u>U.S.A. v. Defendant(s)</u>	<u>Present</u>	<u>Cust</u>	<u>Bond</u>	<u>Attorneys for Defendants:</u>	<u>Present</u>	<u>App</u>	<u>Ret</u>
Andres Urena	X			N/A			X

Proceedings: ORDER DENYING PETITIONER’S MOTION TO VACATE SENTENCE [187]

Before the Court is a motion to vacate sentence brought by petitioner Andres Urena (“Petitioner”) under 28 U.S.C. § 2255. ECF No. 187. For the following reasons, the motion is DENIED.

Petitioner moves to vacate his sentence for ineffective assistance of counsel because he says his attorney failed to adequately advise him of his appeal rights regarding the non-application of an adjustment to the guidelines range for acceptance.

Under *Strickland v. Washington*, 466 U.S. 668 (1984), a claim of ineffective assistance of counsel requires a defendant to show “(1) that counsel’s representation fell below an objective standard of reasonableness...and (2) that counsel’s deficient performance prejudiced the defendant.” *Roe v. Flores-Ortega*, 528 U.S. 470, 476-77 (2000) (internal quotation marks and citation omitted). Counsel perform deficiently when they ignore a defendant’s specific request to file a notice of appeal. *Id.* at 477. When a defendant does not specifically request that an appeal be filed, the question of deficient performance revolves around “whether counsel in fact consulted with the defendant about an appeal.” *Id.* at 478. Consulting with a defendant means “advising the defendant about the advantages and disadvantages of taking an appeal, and making a reasonable effort to discover the defendant’s wishes.” *Id.* “If counsel has consulted with the defendant, the question of deficient performance is easily answered: Counsel performs in a professionally unreasonable manner only by failing to follow the defendant’s express instructions with respect to an appeal.” *Id.*

At the hearing, the Court heard testimony from Petitioner’s counsel for sentencing that, in the week following sentencing, he had a phone call with Petitioner. During this phone call, Petitioner’s counsel discussed with Petitioner the potential outcomes of an appeal in a conversation entirely revolving around whether to file an appeal. Petitioner’s counsel further testified that Petitioner never requested that he file an appeal. Petitioner confirmed that he never requested to file an appeal in his testimony at the hearing.

